

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1796-MWD-E TCEQ ID: RN102186806 CASE NO.: 34909**  
**RESPONDENT NAME: DOUGLAS ADCOCK DBA MCDONALD'S**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 16002 Hempstead Highway and U.S. Highway 290, Jersey Village, Harris County

**TYPE OF OPERATION:** Wastewater Treatment Facility

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired July 6, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Samuel Short, Waste Enforcement Section, MC 149, (512) 239-5363

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Douglas Adcock, Owner, McDonald's, 7117 Belgood Street, Suite C, Houston, Texas 77066

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 20, 2007</p> <p><b>Date of NOE Relating to this Case:</b> September 27, 2007</p> <p><b>Background Facts:</b> The EDP RP was filed June 18, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and a signed Agreed Order was received on May 13, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent came into compliance on August 5, 2008.</p> <p><b>MWD:</b> Failed to maintain authorization for the discharge of wastewater [30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$11,520</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$670/\$10,850</p> <p>The Respondent paid \$670 of the administrative penalty. The remaining amount of \$10,850 shall be payable in 35 monthly payments of \$310 each.</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p>The Executive Director recognizes that the Respondent was issued a new Texas Pollutant Discharge Elimination System Permit No. WQ0014873001 on August 5, 2008.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES

Assigned  
PCW1-Oct-2007  
28-Jan-2008

Screening

1-Nov-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Douglas Adcock dba McDonald's

Reg. Ent. Ref. No. RN102186806

Facility/Site Region 12-Houston

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 34909

Docket No. 2007-1796-MWD-E

Media Program(s) Water Quality

Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 1

Order Type 1660

Enf. Coordinator Samuel Short

EC's Team Enforcement Team 3

## Penalty Calculation Section

## TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$8,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 44% Enhancement

Subtotals 2, 3, &amp; 7 \$3,520

Notes

Enhancement recommended for having 12 NOVs for non-similar violations and one Agreed Order with denial within the last five years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts \$837  
Approx. Cost of Compliance \$10,0000% Enhancement\*  
\*Capped at the Total EB \$ Amount

Subtotal 6 \$0

## SUM OF SUBTOTALS 1-7

Final Subtotal \$11,520

## OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$11,520

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$11,520

## DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

## PAYABLE PENALTY

\$11,520

Screening Date 1-Nov-2007

Docket No. 2007-1796-MWD-E

PCW

Respondent Douglas Adcock dba McDonald's

Policy Revision 2 (September 2002)

Case ID No. 34909

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102186806

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	12	24%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 44%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement recommended for having 12 NOVs for non-similar violations and one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 44%

Screening Date 1-Nov-2007

Docket No. 2007-1796-MWD-E

PCW

Respondent Douglas Adcock dba McDonald's

Policy Revision 2 (September 2002)

Case ID No. 34909

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102186806

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.65 and 305.125(2) and Tex. Water Code § 26.121(a)

Violation Description

Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew the Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13807001, and is continuing to discharge wastewater from the Facility without authorization.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 8

245 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$8,000

Eight monthly events are recommended from the date the TPDES permit expired (March 1, 2007) to the screening date (November 1, 2007).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$837

Violation Final Penalty Total \$11,520

This violation Final Assessed Penalty (adjusted for limits) \$11,520

## Economic Benefit Worksheet

Respondent Douglas Adcock dba McDonald's  
 Case ID No. 34909  
 Reg. Ent. Reference No. RN102186806  
 Media Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$10,000	1-Mar-2007	1-Nov-2008	1.7	\$837	n/a	\$837
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater.  
 Date required is the date the previous permit expired. Final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$837

# Compliance History

Customer/Respondent/Owner-Operator:	CN602974107	ADCOCK, DOUGLAS	Classification: AVERAGE	Rating: 1.60
Regulated Entity:	RN102186806	MCDONALD'S	Classification: AVERAGE	Site Rating: 1.60
ID Number(s):	WASTEWATER	PERMIT	WQ0013807001	
	WASTEWATER	PERMIT	TPDES0082597	
	WASTEWATER	PERMIT	TX0082597	
	WASTEWATER LICENSING	LICENSE	WQ0013807001	
Location:	located at 16002 Hempstead Highway and U.S Highway 290, Harris County, TX		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 08, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 08, 2002 to October 08, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/03/2006	ADMINORDER 2005-0427-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/31/2002	(18936)
2	04/07/2003	(205953)
3	04/15/2003	(29143)
4	05/07/2003	(315683)
5	05/27/2003	(315685)
6	06/26/2003	(315686)
7	07/24/2003	(315687)
8	09/11/2003	(315688)
9	10/13/2003	(315689)
10	10/27/2003	(315690)
11	12/15/2003	(315691)
12	12/29/2003	(315692)
13	01/26/2004	(315693)
14	02/25/2004	(315681)
15	03/22/2004	(315682)
16	04/17/2004	(360580)
17	05/03/2004	(315684)
18	06/07/2004	(360579)
19	07/28/2004	(360581)
20	09/09/2004	(360582)
21	09/28/2004	(360583)
22	11/04/2004	(386627)
23	11/22/2004	(386628)

24	12/09/2004	(340579)
25	01/26/2005	(386630)
26	02/08/2005	(348335)
27	02/17/2005	(386629)
28	02/21/2005	(386625)
29	04/04/2005	(386626)
30	05/13/2005	(424453)
31	05/23/2005	(424454)
32	06/27/2005	(424455)
33	07/31/2005	(445206)
34	08/29/2005	(445207)
35	10/03/2005	(476385)
36	10/31/2005	(476386)
37	12/09/2005	(476387)
38	12/27/2005	(476388)
39	03/20/2006	(476384)
40	04/11/2006	(454540)
41	04/20/2006	(503467)
42	05/04/2006	(503468)
43	06/06/2006	(503469)
44	06/17/2006	(525830)
45	07/13/2006	(479781)
46	08/30/2006	(525831)
47	09/15/2006	(525832)
48	09/28/2007	(572945)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	12/30/2002	(18936)		
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	The chlorine contact basin was turbid and contained a large amount of suspended particulate material.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	The backflow preventer is not RPZ (reduced pressure zone) rated. This type of assembly is required to protect the public water supply from cross-contamination.			
Date:	12/31/2003	(315693)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2004	(315681)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/29/2004	(315682)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2004	(360579)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	05/31/2004	(360580)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2004	(360581)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2005	(424453)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			



Date: 07/31/2005 (445207)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
Date: 03/31/2006 (503468)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
Date: 04/30/2006 (503469)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
Date: 05/31/2006 (525830)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DOUGLAS ADCOCK DBA  
MCDONALD'S;  
RN102186806

§  
§  
§  
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§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-1796-MWD-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Douglas Adcock dba McDonald's ("Mr. Adcock") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Adcock, appear before the Commission and together stipulate that:

1. Mr. Adcock owns and operates a wastewater treatment facility located at 16002 Hempstead Highway and U.S. Highway 290, Jersey Village, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Adcock agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Adcock is subject to the Commission's jurisdiction.
4. Mr. Adcock received notice of the violations alleged in Section II ("Allegations") on or about October 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Adcock of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of eleven thousand five hundred twenty dollars (\$11,520.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Adcock paid six hundred seventy dollars (\$670.00) of the administrative penalty. The remaining amount of ten thousand eight hundred fifty dollars (\$10,850.00) of the administrative penalty shall be payable in 35 monthly payments of three hundred ten dollars (\$310.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Adcock fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Adcock's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Adcock to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Adcock agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Adcock was issued a new Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014873001 on August 5, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Adcock has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

During an investigation conducted on August 20, 2007, a TCEQ Houston Regional Office investigator documented that Mr. Adcock violated 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121(a) by failing to maintain authorization for the discharge of wastewater. Specifically, Mr. Adcock did not renew TPDES Permit No. 13807001, and is continuing to discharge wastewater from the Facility without authorization.

## III. DENIALS

Mr. Adcock generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Adcock pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Adcock's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Douglas Adcock dba McDonald's, Docket No. 2007-1796-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

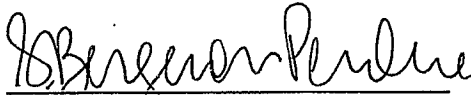
2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Adcock. Mr. Adcock is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Adcock in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Douglas Adcock, or three days after the date on which the Commission mails notice of the Order to Douglas Adcock, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

6/5/2009

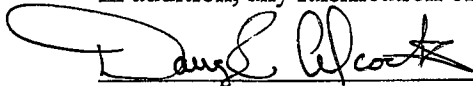
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Adcock's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Adcock;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Adcock;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Adcock; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature

5-13-2009

\_\_\_\_\_  
Date

DOUGLAS R. Adcock

\_\_\_\_\_  
Name (Printed or typed)

OWNER

\_\_\_\_\_  
Title

Authorized representative of

Douglas Adcock dba McDonald's